

ORDINANCE NO. 14,578

AN ORDINANCE to amend the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, by rezoning and changing the district classification of certain property located along NE 50th Street in the Broadway Business Park, from the "A-1" Agricultural District classification it will automatically receive upon annexation, to a Limited "M-1" Light Industrial District classification.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Official Zoning Map of the City of Des Moines, Iowa, set forth in Section 134-277 of the Municipal Code of the City of Des Moines, Iowa, 2000, be and the same is hereby amended by rezoning and changing the district classification of certain property located along NE 50th Street in the Broadway Business Park, more fully described as follows, from the "A-1" Agricultural District classification it will automatically receive upon annexation, to a Limited "M-1" Light Industrial District classification:

Lots 1, 6 through 16, and 22, all in Broadway Business Park Plat 2, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa (hereinafter referred to as the "Property").

Sec. 2. That this ordinance and the zoning granted by the terms hereof are subject to the following imposed additional conditions which have been agreed to and accepted by execution of an Acceptance of Rezoning Ordinance by all owners of said property and are binding upon the owners and their successors, heirs, and assigns as follows:

- A. The following uses of structures and land shall be prohibited upon the Property:
1. Residential dwellings, duplexes, town homes, apartments, group homes, institutional residential facilities, mobile homes, or any other residential facility of any kind, except that hotels and motels who rent to transient guests are permitted;
  2. Farms, except growing crops on any land that has not been improved;
  3. Asphalt or concrete mixing or production facilities;
  4. Refining, smelting or mining operations, including, but not limited to gravel extraction, or drilling for or extraction of subsurface substances;

5. Electrical, or gas generating facilities, except for use primarily on the premises where the same is generated;
  6. Cemeteries;
  7. Adult entertainment businesses;
  8. Arcades or game rooms as a substantial portion of a business;
  9. Taverns and nightclubs;
  10. Animal rendering or slaughter facility;
  11. Off-premises advertising signage;
  12. Sanitary sewer treatment facility (other than for waste material generated on the premises) or solid waste disposal facility;
  13. Jail, prison, or any other correctional facility of any kind;
  14. Any public or private nuisance or illegal activity;
  15. Any use that presents an undue hazard of pollution, fire or explosion, including, but not limited to, the manufacture, storage, display or sale of explosives or fireworks;
  16. Any use that creates hazardous or otherwise unreasonable levels of smoke, noise, vibrations, dust, pollutants, refuse, water borne waste, fumes, odors or other emissions; provided, that what level is "unreasonable" shall be determined with consideration given to the fact that the Property is dedicated for use as a retail commercial and light industrial area.
  17. Temporary structures of any kind other than during construction for construction purposes , unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
  18. Pole buildings, unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.
- B. Sidewalks shall be installed on along the public street on each lot prior to the later of: i) three (3) months after the property is annexed into the City of Des Moines; or, ii) the issuance of a Certificate of Occupancy for a building hereafter constructed on an undeveloped lot.
- C. All facades on the exterior wall of any principal or accessory building facing a public street must be comprised of no less than 20% in windows, doors, or masonry materials such as brick, cut stone, or decorative pre-cast concrete units, unless unique in architectural design and such design is approved by the Community Development Director to be consistent with the overall development and design of Broadway Business Park.
- D. All overhead doors and loading docks on any principal or accessory building shall not face NE 50<sup>th</sup> Street or NE Broadway Avenue (NE 46<sup>th</sup> Avenue), unless determined by the Community Development Director to be adequately screened and designed in such a manner that the overall development and design of Broadway Business Park is not compromised.

- E. Any determination by the Community Development Director in the application of the above conditions and requirements can be appealed to the Zoning Board of Adjustment.

Sec. 3. This ordinance shall be in full force and effect from and after the later of its passage and publication as provided by law, or the annexation of the Property into the City of Des Moines.

Sec. 4. That the City Clerk is hereby authorized and directed to cause certified copies of the vicinity map, this ordinance, proof of publication of this ordinance, and the Acceptance of Rezoning Ordinance signed by all owners of the Property, to be properly filed in the office of the Polk County Recorder.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 06-1505), passed by the City Council of said City at a meeting held July 24, 2006 signed by the Mayor on July 24, 2006 and published as provided by law in the Business Record on August 7, 2006 Authorized by Publication Order No. 5137.

Diane Rauh, City Clerk